MICHIGAN ASSOCIATION OF COUNTY DRAIN COMMISSIONERS
TESTIMONY RE: Senate Bill 163

Senate Natural Resources, Environment and Great Lakes Committee
Thursday, May 2, 2013

Good morning Mr. Chairman and members of the committee. Thank you for the opportunity to provide testimony on Senate Bill 163. My name is Doug Enos and I am the President of the Michigan Association of County Drain Commissioners.

Michigan's Drain Commissioners are responsible for constructing and maintaining literally thousands of drainage systems throughout the State of Michigan. These systems protect our residents, farms and businesses from storm water damage and flooding. We work on maintaining these systems all year to ensure the effectiveness of the systems, but because we have thousands of drains on both private and public land, we cannot control the accumulation of sediments and debris. When drain depth is restricted, water cannot flow properly and in times of great rain like we have had recently, flooding can and will occur. Drains in Michigan provide a vital public service and the maintenance of these systems is essential.

Over the last several months and years, the Drain Commissioners have worked closely with the MDEQ, Representative Stamas and his staff, and now Senator Green and his staff to gain consensus and work through our differences on Wetlands legislation with common sense approaches. Our approach to any changes to the current system stems from our need to provide timely and cost effective remedies to many drainage issues. We have operated under certain exemptions from permits for over 40 years and the loss of some of these exemptions presents a serious threat to our response time to drainage emergencies. As evidenced this year, we must be able to provide timely and cost effective maintenance of drains or we will face devastating and destructive flooding issues all over the state.

The majority of our work is performed as a result of a call from a property owner reporting a drainage problem, and requesting that we alleviate the drainage problem as quickly as possible. Drainage problems can result in problems such as flooded roads, basements, or agricultural fields. Time is of the essence on agriculture lands. Two to four days of inundation is pretty much the limit before crops begin to die, making it necessary for Drain Commissioners to respond in a timely manner.

Please remember that we have operated under these exemptions for over 40 years and are now faced with losing them through this legislation. After negotiations with the MDEQ, we still have several areas of concern, but have some thoughts on how to bridge the gap. We have suggested an approach that, instead of exempting all of our maintenance activities from permitting and instead of applying for a permit for each activity, we would apply for a general permit at the beginning of each year for a small fee without listing specific activities as it is impossible to know where flooding will damage

drains or where property owner complaints will take place. At the end of each year, the Drain Commissioner would then submit a report listing the specific activities that were performed under the general permit. The MDEQ would have the authority to inspect any or all of these activities and work with Drain Commissioners to address any deficiencies.

Drain Commissioners are also concerned with the possibility of drains being considered "lineal wetlands" under Part 303 of the Natural Resources and Environmental Protection Act. Accordingly, MACDC is supportive of amendments to clarify that drains are not regulated as "lineal wetlands."

To put this in perspective, I'd like to turn this over to Stacy Hissong, legal counsel for MACDC, to illustrate the types of maintenance activities we are talking about.

We have prepared packets of photographs depicting the type of maintenance activities that we are talking about here.

1. **Rip rap.** Placement of rip rap (rock specified to stabilize banks and prevent erosion) on drain banks is a common best management practice to stabilize banks. Eroding banks can cause drain blockage and flooding in normally well drained areas. Response time to blocked drains is critical and the decisions as to the amount and specific placement of rip rap are often made in the field. Applying and waiting for a permit for this routine best management practice would be counterproductive and costly.

2. **Spoil placement.** When Drain Commissioners clean out drains, we often must dredge out sediment from the drain. The placement of this excavated sediment, or spoil as we call it, has historically been placed along the top of the bank of the drains. The current legislation does not allow for the continued placement of spoils where they have previously been placed without applying for and receiving a permit. The cost of permitting and the cost of trucking spoils from the drain can far exceed the cost of the rest of the project. Permitting for this type of work can cause considerable delays and will result in larger costs to the property owners. In some cases the requirement would not only be more expensive, but far more destructive. Building a road to haul out spoils and the reclamation of the road and wetland restoration would be so costly that it could stop virtually all maintenance in certain counties within the state.

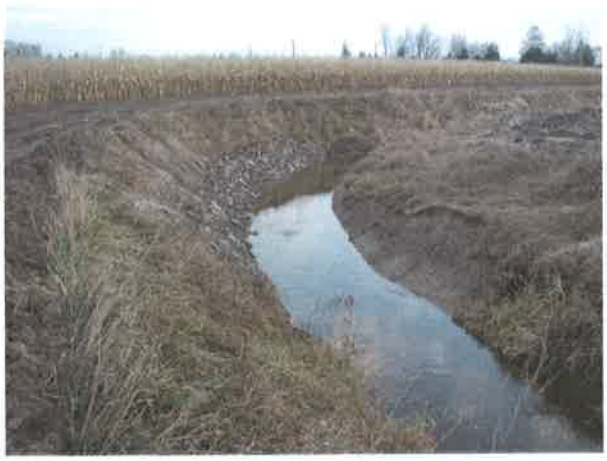
3. **Culvert extensions.** Old farm crossings are no longer wide enough to meet the needs of modern farm equipment. Old pull-behind combines had an 8 foot head. The newest headers today are pushing 42 feet, while in most cases culvert lengths have not increased by an inch. Replacement of culverts in drains is currently an exempt activity, and the extension of a culvert up to 24 feet when replacing it should also be exempt to allow crossing by modern farm equipment. This practice will make it safer for farmers and is considered a best management practice when the culvert is replaced as opposed to extension using bags of rip rap. Please note that the Michigan Department of Transportation is exempt from obtaining permits for this same activity for up to 24 feet.

I would just like to close with the acknowledgment that the agricultural areas of this state will be most affected by the change in permitting requirements for drains. MACDC is fully supportive of the language recommended by Farm Bureau with regard to Senate Bill 163 and is pleased to answer any questions the Committee may have regarding its effect on the maintenance of established drains.

Little Salt Creek Intercounty Drain
Sediment and erosion caused drain to fill and move off original route and course

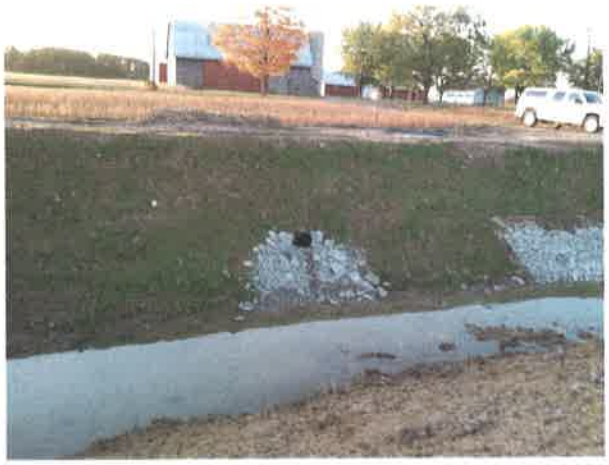
Little Salt Creek after maintenance with riprap installed to protect drain from erosion

Kochville Frankenlust Drain, Bay County
Bank erosion prior to maintenance



Kochville Frankenlust Drain
Use of riprap to stabilize bank during maintenance

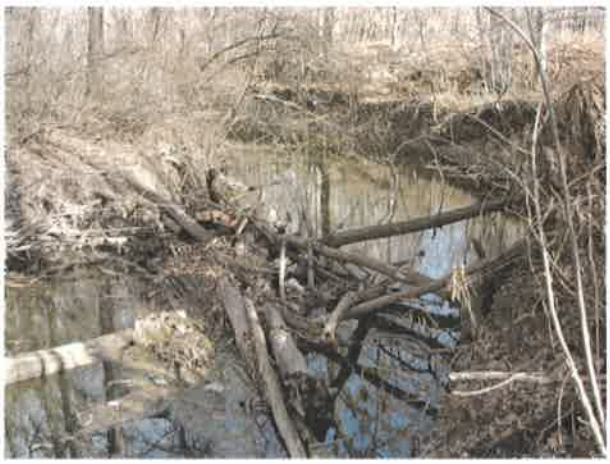
Kochville Frankenlust Drain, Bay County
Rip rap used to stabilize banks downstream of culvert



Kochville Frankenlust Drain
Typical use of rip rap to stabilize bank at field tile outlet

Au Gres River Drain, Arenac County
Severe erosion causing obstructions in the drain

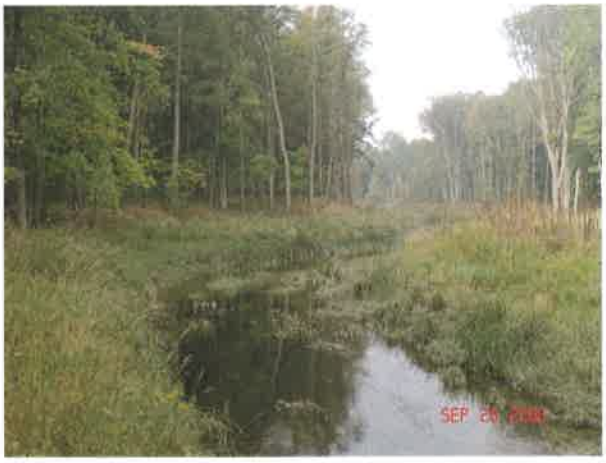
Au Gres Drain after maintenance
Rip rap used to stabilize banks to prevent further erosion



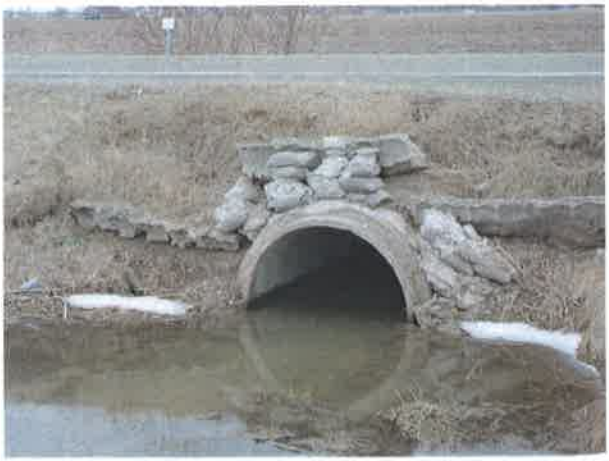
Little Salt Creek Intercounty Drain
Before maintenance activities

Little Salt Creek Intercounty Drain
Wetland Area in drain right-of-way

Little Salt Creek after maintenance
Placement of spoils along historical drain right-of-way



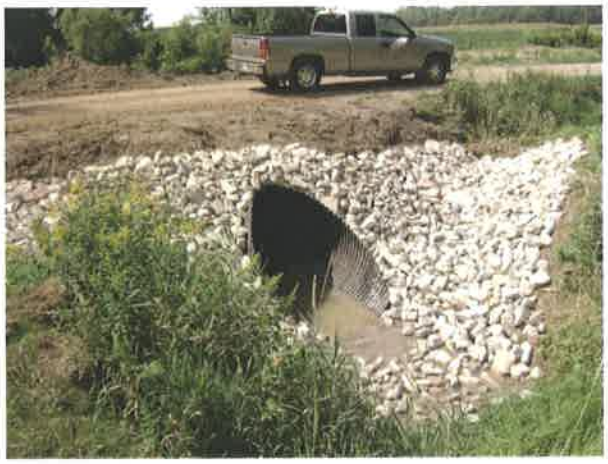
Little Salt Creek after maintenance
Placement of spoils along historical drain right-of-way



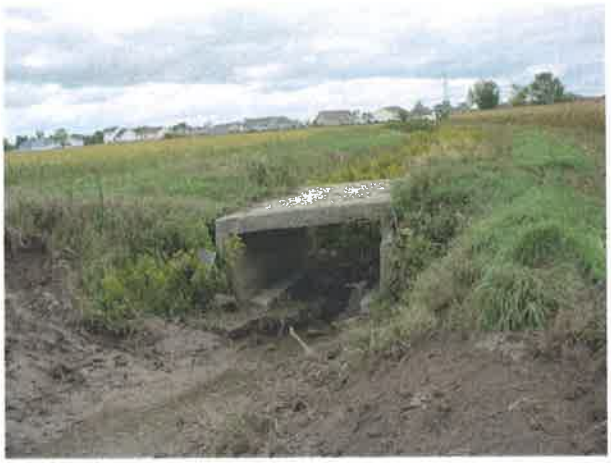
Goetz Intercounty Drain, Saginaw County.
Typical culvert with bad headwall, causing erosion and safety concerns

Little Salt Creek Intercounty Drain, Gratiot County
Deteriorated bag concrete headwall

Goetz Intercounty Drain
Replaced and "extended" culvert



Little Salt Creek Intercounty Drain
Replaced and "extended" culvert



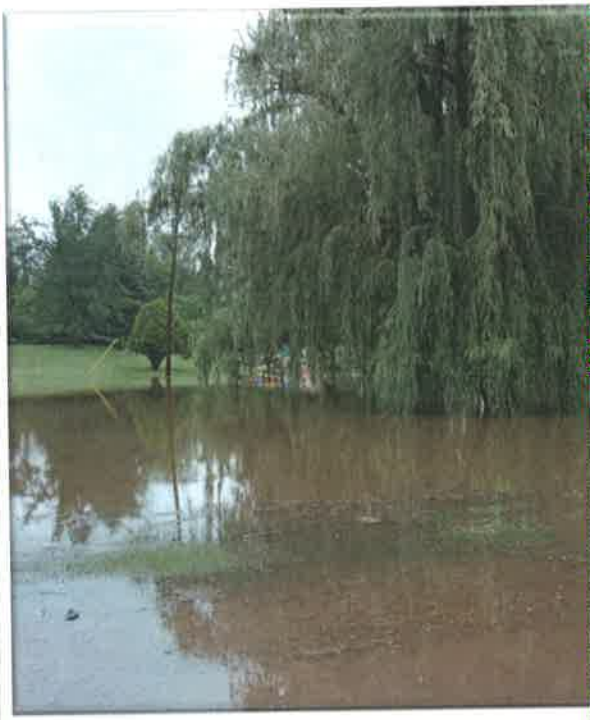
Goetz Drain
Old Farm Crossing

New Culvert
"Extended" to Allow Farm Equipment to Cross

New Culvert Replacing Old Farm Crossing

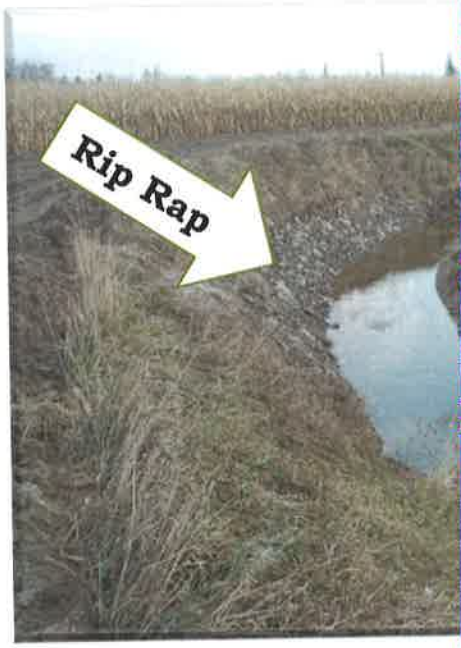
Management of Stormwate

Address Existing Flooding Pro



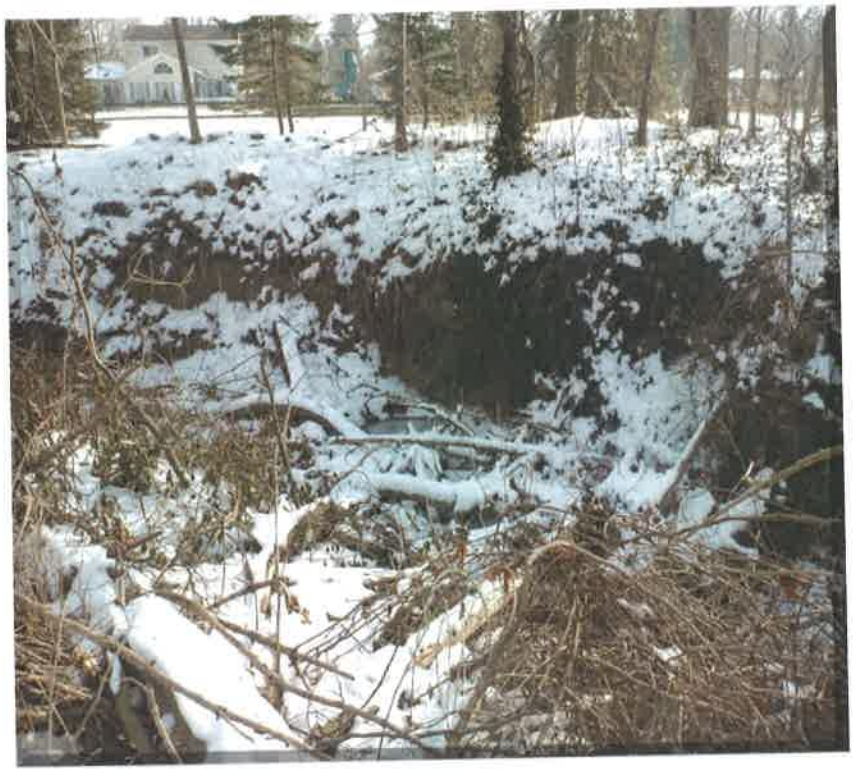
Drain Maintenance and Improvement

Enclosed Drains

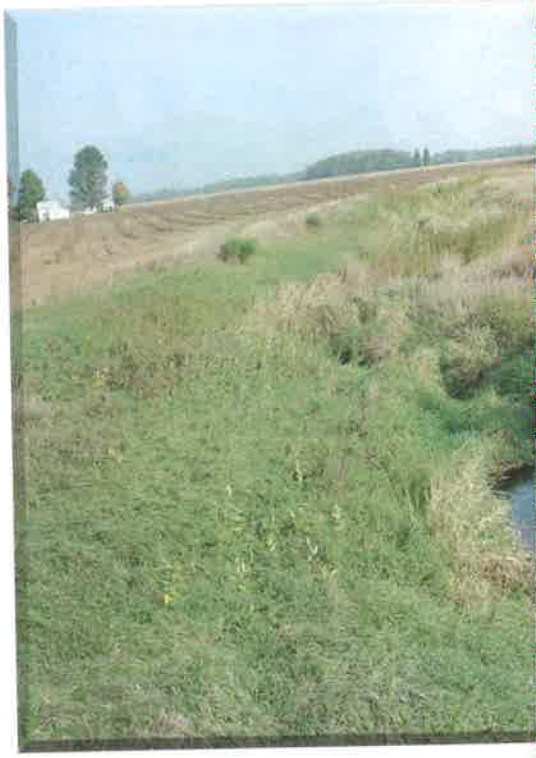


Open Channe

Open Drains – Sediment a
Obstruction Removal: Befo



Obstruction in Drain



Sediment in dra

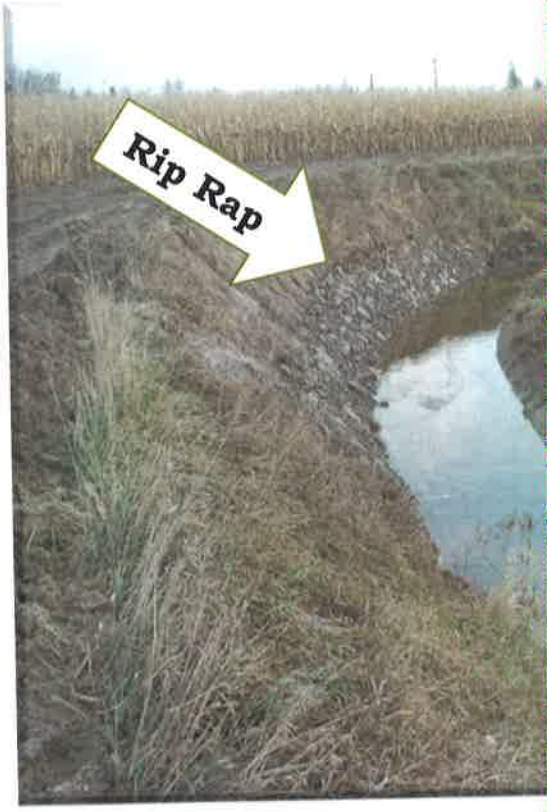
Open Drains – Sediment a
Obstruction Removal: Aft

Debris removed

Sediment remo

Open Drains – Erosion Co

Eroded Bank



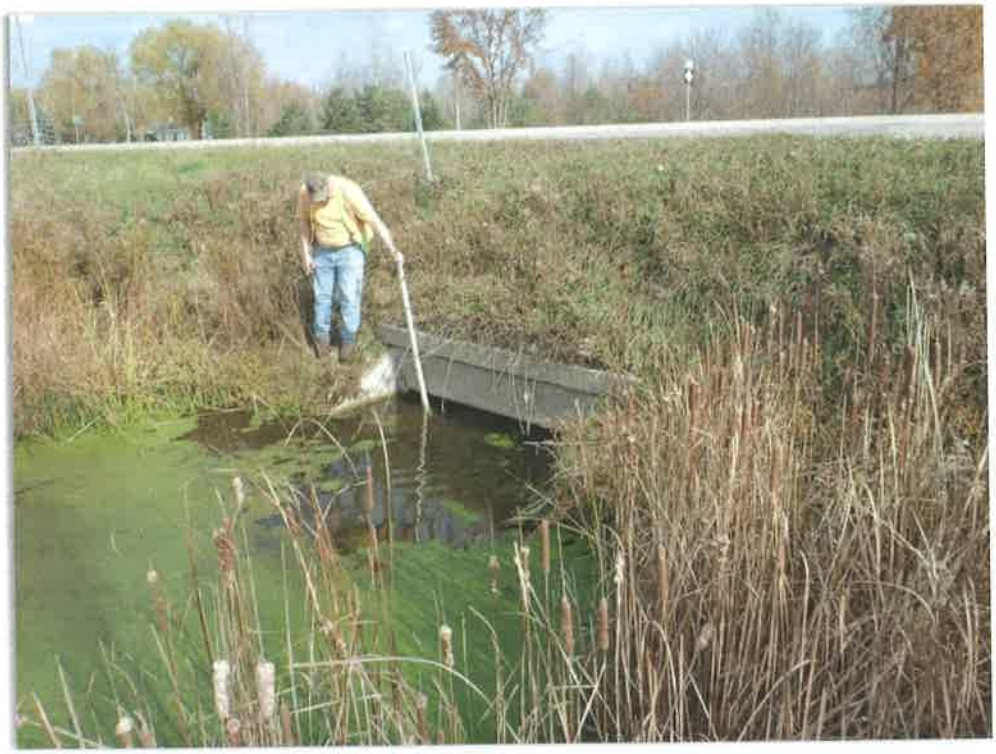
Stabilized Ban

Open Drains – Erosion Cor

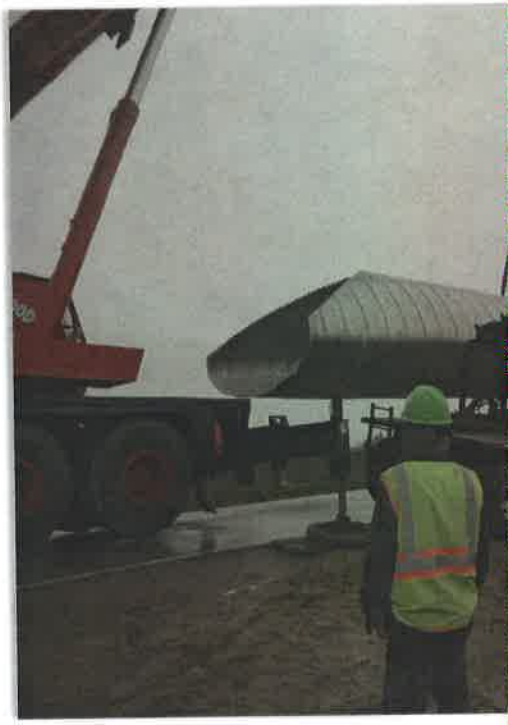
Eroded Bank

Stabilized Banl

Open Drains – Culvert Cleaning and Replace

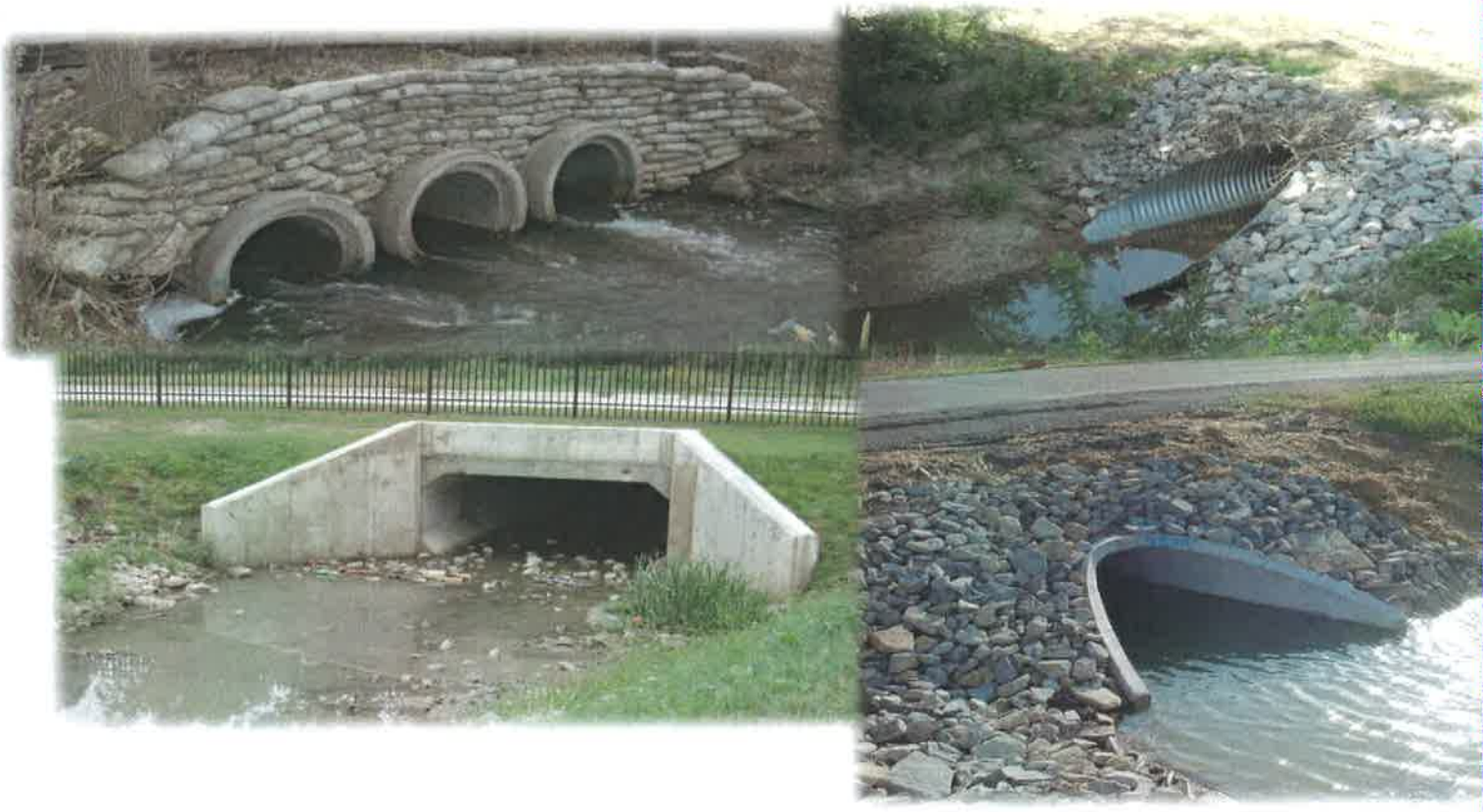


Plugged Culvert



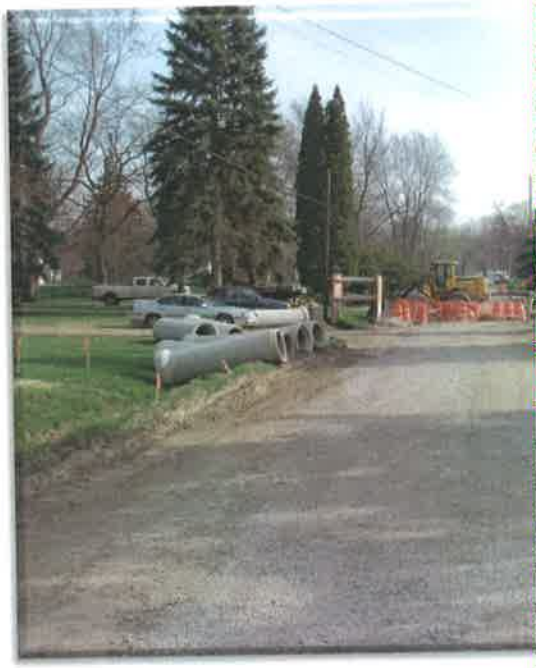
Culvert Replacem

Culverts



Enclosed Drains

Surcharging Storm Sewer



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